

IN THE MATTER OF:

Broderick Taylor
vs.
Branneky & Sons Mercantile Company

Cause No. 4:04CV1328TCM

Deposition of Broderick Taylor
5/24/2005

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Full GLOSSARY included with this DepoScript



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[1] there?
[2] A: I was a manager, paint salesman.
Q: Anything else?
[4] A: No. Just different things I did there,
[5] that's all.
[6] Q: All right. As a manager at Meyers True Value
[7] Hardware what were your duties and responsibilities?
[8] A: Came in, opened up the store, get the till
[9] ready to put out and get the store ready to open. And
[10] the regular day routine of running the store and
[11] ordering merchandise and whatever came along.
[12] Unloading the trucks and loading the trucks and
[13] delivering merchandise and mixing paint.
[14] Q: Okay.
[15] A: I also did windows and screens repair.
[16] Q: Okay. Did you have any responsibility for
[17] counting money or cash drawers at Meyers?
[18] A: Yes. I took the deposit to the bank.
[19] Q: When did you, when did you apply for work at
[20] Branneky's?
[21] A: I think it was 1984 when I came there.
[22] Q: I'm sorry?
[23] A: I think, I'm trying to remember, it was in
[24] '84 when I came here in June.
[25] Q: And how was it that you came to be employed

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[1] at Branneky's?
[2] A: I came up and put an application in and I was
[3] hired.
[4] Q: Did you interview with anyone or talk with
[5] anyone before they hired you?
[6] A: Yes, I did.
[7] Q: Who did you meet with?
[8] A: Lyle. Lyle Dowynes.
[9] Q: Do you know how to spell his last name?
[10] A: Oh, Lord. D-o-w-y-n-e-s, I think.
[11] Q: I'm just going to call him Lyle. What was
[12] Lyle's position if you know?
[13] A: He was part owner.
[14] Q: Did you know who the other owner or other
[15] owners were at that time?
[16] A: Jack Branneky.
[17] Q: How did you know that?
[18] A: Mr. Dowynes told me.
[19] Q: And what position or job were you hired in at
[20] at Branneky's for?
[21] A: Service counter in the beginning.
Q: And how long did you work -- strike that.
[23] in the service counter position that you were
[24] hired in at initially describe for me what were your
[25] duties and responsibilities in that position.

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[1] A: Well, we cut thread pipe and cut glass, sold
[2] merchandise from the service counter, we cut keys.
[3] That's what we did at that time but as time progressed
[4] along we did other things.
[5] Q: Okay. Tell me how that changed over time.
[6] A: Well, they started to get into the business
[7] of selling propane so I, I did propane. I filled
[8] propane for customers.
[9] Q: Okay.
[10] A: And kerosene. And as time went on we had a
[11] man -- well. Also we did the licenses, the hunting and
[12] fishing licenses.
[13] Q: Okay. All right. And how did you, how did
[14] that work, how did the hunting and fishing license
[15] work?
[16] A: Basically a gentleman would come in and hand
[17] me his license and we would write up a hunting or
[18] fishing license for him.
[19] Q: So did you have to read the information on
[20] the license and then copy it down to a form or
[21] something like that?
[22] A: Yes, I did.
[23] Q: Okay.
[24] A: But eventually as time went on they went to a
[25] computer system.

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[1] Q: So you would read the information from a
[2] license and enter it into a computer, is that correct?
[3] A: Yes.
[4] Q: Now, you said also I think that you sold
[5] plumbing fixtures at the service counter, is that
[6] right?
[7] A: Yes, sir.
[8] Q: And tell me about that. What did you have to
[9] do in that position to perform that function?
[10] A: Basically looking up the prices in the book
[11] and give them a price on fixtures and whatnot and
[12] whatever fixtures they told us that they wanted we just
[13] went back and got the fixtures for them and priced them
[14] and put them in a bag and sent them to the checkout.
[15] Q: And did that sometimes require you to
[16] identify what the fixture was when it was handed to you
[17] or given to you by the customer?
[18] A: Yes.
[19] Q: Now, in cutting pipe, what was involved in
[20] cutting pipe?
[21] A: Basically just measuring it and putting it in
[22] the machine and cut the pipe and thread the pipe.
[23] Q: Okay. I was going to ask you. You also
[24] threaded pipe if you needed to?
[25] A: Yes.

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[1] Q: What types of pipe did you cut?
[2] A: Black iron pipe, galvanized pipe.
[3] Q: What type of work did you do with glass at
[4] the service counter?
[5] A: Basically when the customer came in and asked
[6] for glass we would measure windows and cut the glass to
[7] fit.
[8] Q: Okay.
[9] A: Or if they had the measurements they gave
[10] them to us and we just cut them to their measurement,
[11] wrapped them up, priced them.
[12] Q: What about window screens, did you work with
[13] window screens at the service counter?
[14] A: Yes. Just measure the screen and we would go
[15] down in the basement and measure it off, cut it off and
[16] roll it up and price it.
[17] Q: What was involved with cutting keys at the
[18] service counter?
[19] A: Basically just identifying the key blank and
[20] you pick the correct key blank and you line it up in
[21] the machine and cut your key.
[22] Q: Okay. Did you ever use something called a
[23] stem grinder at the service counter? Do you know what
[24] I'm talking about?
[25] A: A stem grinder?

[1] A: One of our paint managers left and went to
[2] work for Wal-Mart and I had been working with him in
[3] that department and since I had had some knowledge o
[4] paint from when I used to work with Meyers -- I don't
[5] know exactly what year, I'm sorry. Could have been
[6] maybe the second or third year after I was working
[7] there.
[8] Q: That's what I was going to ask you if you
[9] remember about how long you had worked there before
[10] became paint manager?
[11] A: I would say about, could be second, third
[12] fourth. Between the second and the fourth.
[13] Q: Okay. And who was the paint manager that
[14] left and went to Wal-Mart?
[15] A: I think his name was Mike Rebee.
[16] Q: And what were your duties and
[17] responsibilities as paint manager at Branneky's when
[18] you first entered into that position?
[19] A: Basically fill the shelves up and mix paint
[20] for customers and order merchandise. Make sure the
[21] shelves are stocked.
[22] Q: Okay. Approximately how many gallons of
[23] paint would you mix in a given week if you could
[24] estimate on average?
[25] A: I would say hundreds.

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[1] Q: Yeah. Maybe I'm using the wrong
[2] terminology. Does that make any sense to you?
[3] A: No.
[4] Q: Did you ever use a grinder at all when you
[5] were working at the service counter?
[6] A: Yes.
[7] Q: Okay. What did you use it for?
[8] A: Sometimes when we were working on -- the
[9] people brought in their stems, fonted stems to be
[10] repaired. Sometimes that required when there was some
[11] bad metal on it or something that had to be ground
[12] down. We used that to grind.
[13] Q: So you would have to see the stem and then be
[14] able to grind off what was bad?
[15] A: Yes.
[16] Q: Okay. And what was your rate of pay when you
[17] were hired at Branneky's?
[18] A: I'm not sure.
[19] Q: Okay.
[20] A: I think it was like \$6.00 or something.
[21] Q: Okay. Were there -- what was the next
[22] position you worked at Branneky's other than the
[23] service counter?
[24] A: I became the paint manager.
[25] Q: When did you become the paint manager?

[1] Q: Hundreds of gallons of paint?
[2] A: Hundreds of gallons of paint. We had
[3] apartment building complexes and we had Lambert Fiel
[4] McDonnell Douglas and some of the other businesses
[5] around that we mixed a lot of paint for. Besides
[6] regular customers that would come in.
[7] Q: Who were or what were some of the apartment
[8] complexes you mixed paint for?
[9] A: I'm sorry, I don't remember.
[10] Q: Okay. What type of -- strike that.
[11] You said, you also mentioned Lambert Field.
[12] What were you doing regarding mixing paint for Lamber
[13] Field?
[14] A: They would bring paint over and want us to
[15] match it. I would look in the book and find the color
[16] that would match it and get the formula and mix it up.
[17] Q: And was that the same type of work you were
[18] doing for McDonnell Douglas, do you know?
[19] A: No, I didn't say I was working for McDonnell
[20] Douglas.
[21] Q: I understand. Strike that. I'll ask a
[22] better question.
[23] What did you do with respect to McDonnell
[24] Douglas while you worked at Branneky's?
[25] A: They brought some paint in and needed me to

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[1] make it up. I would make the paint up and have the
[2] order ready for them to pick up.

Q: How many times did you mix paint for
[4] McDonnell Douglas?

[5] A: I would say quite a bit.

[6] Q: Okay. Can you give me an estimate of the
[7] number of times?

[8] A: Oh, in a year's time, oh, maybe two, three
[9] times a year.

[10] Q: What about for Lambert Field was it about the
[11] same?

[12] A: About the same.

[13] Q: Okay. Tell me what process you would go
[14] through when a customer, any customer, would come in
[15] with a request for you to mix paint. What type of
[16] process did you go through, what did you have to do is
[17] what I'm asking you?

[18] A: It depends on if they're bringing me a color
[19] chip.

[20] Q: Let's assume they're bringing you a color
[21] chip.

[22] A: Okay. I take that color chip and I would go
[23] to the color rack and try to match that color. If I
[24] found the color that matched I would just look, take
[25] that chip out and on the back it would have a code,

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[1] look in the book, it gives me a formula, and I would
[2] mix that formula. Get the gallon of paint and mix it.

[3] Q: Okay.

[4] A: Shake it up for them.

[5] Q: When you mixed paint what type of mixer did
[6] they have there at Branneky's?

[7] A: They had a particular mixer that it just
[8] revolved around with all the different skews and
[9] basically all I had to do was unlock it, slide it to
[10] the position, lock it in place and take the measurement
[11] and move it up to where the amount that the formula
[12] required and shoot it in the gallon of paint.

[13] Q: Okay. How would you know when you had it in
[14] the right position to lock it in?

[15] A: Each one of the, on each of the, I guess you
[16] call the little measurements or the, I can't think of
[17] what they call them. They're little notches and you
[18] had numbers beside it.

[19] Q: Okay.

[20] A: And you just lock it in that place where
[21] those notches were.

Q: And was there a number -- you said there were
[23] numbers corresponding with the notches?

[24] A: Right, on the side.

[25] Q: And you would read numbers from the formula

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[1] and then find them on the notches, is that correct?

[2] A: Yes.

[3] Q: Okay.

[4] A: What I would do is write those numbers down
[5] on a piece of paper.

[6] Q: Okay.

[7] A: Or I usually kept a little note pad and wrote
[8] it down.

[9] Q: Okay. And what was in the formulas, tell me
[10] what they were like.

[11] MR. JIMERSON: Let me object to the -- for
[12] vagueness. I don't understand the question. What was
[13] in the formulas? What in particular are you referring
[14] to?

[15] Q: How did the paint formulas read?

[16] MR. JIMERSON: Do you understand the question?

[17] A: Yes.

[18] MR. JIMERSON: Okay. You can answer.

[19] A: Paint formula would read, it would tell you,
[20] depending on what the customer want, if they wanted
[21] indoor paint or outdoor paint, whether they wanted

[22] flat, a semi gloss or a gloss, it would tell you the

[23] particular base that you would use and it also would

[24] give you the increments. So it would tell you like if

[25] AX, which would be yellow oxide, you would go AX and it

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[1] would give you the formula AX 42 or AX 3 or whatever it
[2] would be. So you would turn the machine around to AX
[3] then you would lock the, move the measurement up and
[4] lock it into place for whatever number it would be,
[5] whether it be 3 or 23 or 48.

[6] Q: Okay. Whatever it might be?

[7] A: Whatever it might be.

[8] Q: Okay.

[9] A: And then you had a place where you release it
[10] and push the paint, the die, the pigment they call it.

[11] Q: Did you have to put the different skews and
[12] pigments, did you have to load those into the machine
[13] yourself?

[14] A: Yes, I would fill the machine.

[15] Q: And was that a responsibility of yours as
[16] paint manager?

[17] A: That was my responsibility, yes.

[18] Q: How did you go about filling the machine?

[19] A: I would have to take the machine before I
[20] clean it and shake up the quarts of pigment and pour
[21] them in.

[22] Q: And you how would you identify the different
[23] skews and pigments that you're loading into the
[24] machine?

[25] A: I'm sorry?

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[1] Q: How would you identify what you were loading
 [2] into the machine, were there numbers or colors you were
 [3] looking at?
 [4] A: The numbers, the numbers were on the can.
 [5] AX, B, C, D, whenever the pigment was.
 [6] Q: All right. And where was the, where were the
 [7] paint supplies like that kept at Branneky's?
 [8] A: The pigments was kept in my desk.
 [9] Q: Were there other paints and supplies stored
 [10] elsewhere?
 [11] A: In the basement.
 [12] Q: Okay. And how did you get to the basement
 [13] from the paint department?
 [14] A: Down the steps.
 [15] Q: Okay. Would that require you to walk through
 [16] the service counter area?
 [17] A: It depends. Yes, it would require me
 [18] sometimes to walk that way.
 [19] Q: Was there another way you could go?
 [20] A: Down the front steps.
 [21] Q: After you would mix paint for a customer
 [22] would you then visually look at it to see if it matched
 [23] the chip that they brought in?
 [24] A: Yes, I would brush it out -- a lot of times
 [25] what I did, because I wanted the customer to be

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[1] satisfied, I would brush it out on something, take it
 [2] back to the hand drier and dry it real fast because the
 [3] color that's in the can is always lighter than the
 [4] dried.
 [5] Q: Right.
 [6] A: And bring it out to them and let them look at
 [7] it and if they approved it put the top on it and tell
 [8] them thank you, load it up for them, take them up to
 [9] the checkout.
 [10] Q: Okay. Did you ever work as a cashier at
 [11] Branneky's?
 [12] A: No. No, because they went to computers.
 [13] Q: All right. But you never worked as a cashier
 [14] there?
 [15] A: No.
 [16] Q: Okay. Getting back to the paint again, was
 [17] that mixing process that you described for me, was that
 [18] more or less the same during the entire period of time
 [19] you worked for the company?
 [20] A: More or less the same?
 [21] Q: Strike that. That's a bad question.
 [22] Did they ever get a different mixing machine,
 [23] did what you had to do to mix paint ever change?
 [24] A: They just changed and got a new mixer because
 [25] the old one was worn out. They changed over the years.

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[1] Q: Was it the same type of mixer though?
 [2] A: Basically the same just had more skews.
 [3] Q: But you would set it the same way and it
 [4] mixed paint the same way?
 [5] A: Basically set the same way.
 [6] Q: That's what I mean when I say was the process
 [7] of mixing paint more or less stayed the same over the
 [8] entire period of time you worked there?
 [9] A: Yes.
 [10] Q: All right. What other responsibilities did
 [11] you have as the paint manager, you told me and I'm not
 [12] sure that I remember. You said stocking the paint
 [13] supplies, is that right?
 [14] A: Stocking. I would order merchandise in and
 [15] stock it.
 [16] Q: Okay.
 [17] A: Well, paint and sundries.
 [18] Q: And that would include, obviously, the paint
 [19] but might include brushes and rollers?
 [20] A: Brushes, rollers.
 [21] Q: What else?
 [22] A: Paint chemicals.
 [23] Q: All right. How long were you the paint
 [24] manager at Branneky's?
 [25] A: Up until I quit. I mean not when I quit.

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[1] Strike that. Up until I got fired.
 [2] MR. GRAHAM: Off the record.
 [3] (Discussion off the record)
 [4] Q: So you told me, Mr. Taylor, that you were,
 [5] you worked in the paint manager position from about
 [6] somewhere between the second and fourth year you
 [7] started with Branneky's until the time you were
 [8] terminated, is that your testimony?
 [9] A: Right.
 [10] Q: Is that right?
 [11] A: Yes, sir.
 [12] Q: Now, stocking the paint and sundries, what
 [13] was involved in that process, what did you have to do?
 [14] A: Basically what I would do is make a list of
 [15] what needed to be stocked and I would go down in the
 [16] basement and accumulate it and take it upstairs and
 [17] stock the shelves.
 [18] Q: Okay. How did you get the paint and other
 [19] products upstairs?
 [20] A: I carried them.
 [21] Q: Okay. Did you have some totes or baskets or
 [22] something you would use?
 [23] A: Yes, I did. They didn't have an elevator.
 [24] Q: Okay. About how many hours a week did you
 [25] spend stocking paint supplies?

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[1] A: Oh, Lord.
[2] Q: An estimate is fine.
[3] A: I'll say a lot because I sold a lot of
[4] paint.
[5] Q: Okay.
[6] A: Well, also because of me being paint manager
[7] because we had those accounts with departments and
[8] whatnot there were times that I had to get paint
[9] stocked and down in the basement for them to deliver
[10] to. So that would be besides what I did on the floor.
[11] That was almost like an endless job. Lots of hours.
[12] Q: So there was a loading out door down the
[13] basement, is that right?
[14] A: Yes.
[15] Q: Was your regular work week a 40 hour week at
[16] that time?
[17] A: Well, I was doing more than 40 hours a week
[18] but, yes.
[19] Q: That was a regular work week, correct?
[20] A: Yes.
[21] Q: Out of a 40 hour week about how many were
[22] spent stocking paint supplies?
[23] A: I would stock them in the morning and in the,
[24] and I tried to stock them before I left for the day.
[25] So to be truthfully honest with you I can't really say

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[1] exactly how many hours it took me a day. And the
[2] reason why I tell you that is because I also became a
[3] night manager and by me being knowledgeable with a lot
[4] of the merchandise in the store there were times I had
[5] to work the service counter, stop and go up front and
[6] count money out or do exchanges, stop and go to lawn
[7] and garden and help do any number of things. So it's
[8] just, just a constant stopping and doing things and
[9] going back to what you were doing and filling the
[10] shelves.
[11] Q: Okay. When did you become a night manager at
[12] Brannekey's?
[13] A: I'm not totally sure but I think within the
[14] sixth or seventh year I was there.
[15] Q: Okay. Now, let me back up to paint again
[16] before we move on to your night manager duties.
[17] You've talked about mixing paint and you've
[18] talked about stocking paint. What did you do with
[19] respect to ordering paint and paint sundries?
[20] A: I would go through the basement and -- I'm
[21] sorry, I had a certain system that I had things set up.
[22] Q: Okay. Tell me about your system and how you
[23] went about ordering.
[24] A: All right. I had the IBM's on the back of
[25] the, these what they call IBM chips that I had on the

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[1] shelf, on the front of the IBM chip I would write what
[2] the merchandise was. Let's say if it was HPX 9, which
[3] would be the white house paint flat, HPX would be the
[4] house paint, 9 would be the color, which would be
[5] white.
[6] Q: Okay.
[7] A: On the back of the IBM chip I had the IBM tag
[8] which tells you the item number, tells you the quantity
[9] to be numbered and the price tag on it. I had these on
[10] the shelf. So what I would basically do is go down
[11] through the shelves and find out what I was low on,
[12] write that item down, and then later on I would go home
[13] and write out my order. Sometimes if I had time I
[14] would be at the store and write the order. Turn the
[15] order in on Friday or Saturday.
[16] Q: When you say an IBM chip, are you talking
[17] about a paint chip?
[18] A: There's plastic like cards, little card, they
[19] have holes on them, they hang them on the shelf and
[20] they had IBM tags on them which identifies the
[21] merchandise. Like if I had paint brushes hanging I
[22] would have them hanging there and when I would look
[23] through the shelf if there were maybe three paint
[24] brushes left out of 12 I would get the IBM chip and
[25] write down what I need to order, put it in my note pad

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[1] and hang that back up. And then I would, after I get
[2] everything written down I would get a note pad and sit
[3] in the room back there and write all the orders out.
[4] Q: Okay.
[5] A: In the lunchroom.
[6] Q: So the IBM chip was a card that had --
[7] A: Plastic white card. It was just a plain
[8] plastic white card.
[9] Q: You just identified what the product was,
[10] what the skew numbers were and things like that?
[11] A: Yes, I would take the IBM tag, it was
[12] self-adhesive, and pull it off and stick it on the back
[13] of it. And on the front of it I would write on there,
[14] because I kept a system in order to keep up with
[15] everything.
[16] Q: Okay.
[17] MR. GRAHAM: Off the record a second.
[18] (Discussion off the record)
[19] Q: Mr. Taylor, I'm going to hand you, I'm not
[20] going to mark this as an exhibit, but I'm going to hand
[21] you some documents that were produced by your attorney
[22] in this case to me. And the top page here is a form
[23] and it says Cotter and Company, True Value Hardware, it
[24] says ordering record up in the upper right-hand corner,
[25] it says type of order, paint sundries. There's a

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[1] Q: All right. At the time you were terminated in
 [2] November of 2001 were you still working as the paint
 [3] manager?
 [4] A: Yes, I was.
 [5] Q: And were the duties and responsibilities you
 [6] had and that you described for me were they still the
 [7] same?
 [8] A: Yes, they were.
 [9] Q: Okay. Were you still working at the service
 [10] counter, in the service counter position in November of
 [11] 2001?
 [12] A: Yes, I was.
 [13] Q: Okay. And were you still able to do all of
 [14] the job duties and functions that you described for me
 [15] for both the service counter and the paint department
 [16] in November of 2001?
 [17] A: Yes, I was.
 [18] Q: What other positions did you hold at
 [19] Branneky's besides -- well, you told me you became a
 [20] night manager about the sixth or seventh year,
 [21] correct?
 [22] A: Right.
 [23] Q: Now, tell me what the duties and functions
 [24] were of the night manager at Branneky's.
 [25] A: Basically it was to make sure that the store

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[1] is being run properly and all of the customer were
 [2] being taken care of and make sure that the cashiers had
 [3] the right amount of change and make sure that the
 [4] salesmen were in the lawn and garden department, if
 [5] they were doing what they were supposed to be doing as
 [6] far as cleaning up and restocking.
 [7] And also, too, we would have merchandise that
 [8] came in on the truck that needed to be put up, make
 [9] sure that the merchandise was being properly stocked on
 [10] the shelves. Make sure the service counter was being
 [11] run correctly and if, if need be, if they were swamped
 [12] with customers I would go back and help them.
 [13] Q: At the service counter?
 [14] A: Yes. I would do returns.
 [15] Q: What was involved in doing returns?
 [16] A: Customer returns?
 [17] Q: Yes.
 [18] A: I would come up and look at the merchandise
 [19] and check it out, see if it was something we could
 [20] replace if it was our merchandise, if it was something
 [21] that might have been defective in shipping or if it was
 [22] something that the customer had damaged.
 [23] Q: Okay. So you would have to look at it and
 [24] know what it was and know whether it was something you
 [25] had sold and what the general problem with it was, is

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[1] that fair?
 [2] A: That's correct.
 [3] Q: Have you now described for me all of the job
 [4] duties and functions for the night manager position at
 [5] Branneky's?
 [6] A: I would lock up at night and take the, the,
 [7] the drawers of the money out, lock them in the safe, go
 [8] around and make sure all the doors are locked, all the
 [9] alarms are set and then I would leave out and lock the
 [10] gates at night.
 [11] Q: Okay. Were you responsible for counting
 [12] money drawers?
 [13] A: No, not anymore because they changed that.
 [14] We just put the money in the safe and they would count
 [15] it the next day.
 [16] Q: When you say not anymore they changed that,
 [17] when did the change happen?
 [18] A: Well, when they went to the new cash
 [19] registers.
 [20] Q: And when was that?
 [21] A: It could have been, oh, in the last six or
 [22] seven, eight years. I'm not totally sure exactly.
 [23] Q: In November of 2001 were you still working in
 [24] the night manager position?
 [25] A: I was still scheduled to be a night manager

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[1] but they had put someone else in that position.
 [2] Q: When you say you were still scheduled to be a
 [3] night manager, what do you mean by that?
 [4] A: They still had me down on the manifest for a
 [5] night manager.
 [6] Q: Okay. But they would not schedule you for
 [7] any night manager times?
 [8] A: What they would do is they would have another
 [9] manager working there with me and they basically gave
 [10] him the, I would just be back there working helping out
 [11] with the service counter or different other things and
 [12] he would take care of everything else.
 [13] Q: Okay. Who would work with you in that
 [14] position?
 [15] A: Oh, Lord. I can't think of the name right
 [16] now.
 [17] Q: That's okay. Let me ask this question then.
 [18] When did, when did that first start, and by that I mean
 [19] when did someone first start working with you when you
 [20] were working the night manager position?
 [21] A: Well, on Sundays they always did have two
 [22] managers working together.
 [23] Q: On Sundays?
 [24] A: On Sundays.
 [25] Q: Why is that?

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[1] A: Because of the volume of, supposed volume of
[2] business that we would do because we were open on
[3] Sundays and a lot of the other hardware stores and
[4] whatnot were closed. So that would free one up to be
[5] up front of the store while one would be back at the
[6] back of the store and we would be able to keep things
[7] running.
[8] Q: But that was always standard practice on
[9] Sundays?
[10] A: On Sundays.
[11] Q: Was there a time on other days, or I guess
[12] nights in this case, would there be someone else
[13] working with you when you were the night manager that
[14] was not the initial practice?
[15] A: That didn't start until after I came back
[16] from the surgery.
[17] Q: Okay. When was that?
[18] A: A little after 2000.
[19] Q: Okay. And what surgery was that that you
[20] came back from?
[21] A: I had three hernias repaired. I believe that
[22] was on Thursday night when that would happen. Dan,
[23] that was his name.
[24] Q: Now, before, let's say before the year 2000
[25] about how often were you scheduled to work as a night

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[1] manager?
[2] A: Usually every Friday night. I mean not
[3] Friday night, I'm sorry. Usually every Thursday night.
[4] Q: Were there any other nights that you would
[5] typically work as night manager?
[6] A: If somebody was on vacation or something and
[7] they needed me to fill in.
[8] Q: But Thursday night was your regular night?
[9] A: Normally Thursday nights were.
[10] Q: How late was the store open on Thursday?
[11] A: They had been open until 9 o'clock but they
[12] started closing at 8.
[13] Q: At 8?
[14] A: Yes.
[15] Q: What was involved with setting the alarm and
[16] locking the doors at night?
[17] A: Basically to make sure that the doors were
[18] locked. We had overhead doors in the feed house area
[19] that we had to make sure that the door is down and in
[20] the locked position to make sure that that magnetic
[21] strip that was on the door would match the one on the
[22] door. They had two overhead doors that had magnetic
[23] closings in it and the lawn and garden department, they
[24] had like big bolt locks that we had to make sure it was
[25] locked in place so that the eye up in the wood would

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[1] match the magnet piece in the door.
[2] Q: Okay.
[3] A: So basically make sure all the doors were
[4] locked. And then as far as setting the alarm all I had
[5] to do is after I clocked out and turned the lights off
[6] hit a button and go out the door and then lock the door
[7] behind me.
[8] Q: Okay. And then locking up the gates, is that
[9] the gates on the parking lot, is that right?
[10] A: Well, that would be locked before we closed.
[11] Right when we were closing the store.
[12] Q: Were you also responsible as the night
[13] manager for doing that?
[14] A: Yes. Well, basically the feed house guys
[15] would lock it and I would just stand out there and make
[16] sure they locked it. If they had a problem with the
[17] lock working on the lock and make sure it got locked.
[18] Q: How many gates were there outside?
[19] A: There was two in the front, one -- no,
[20] three. Two on the Martin Luther King side or Rock Road
[21] side and one on the left-hand which would be the Fee
[22] Fee side.
[23] Q: Okay. The store is located at Fee Fee and St.
[24] Charles Rock Road.
[25] A: Right on the corner.

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[1] Q: Okay.
[2] A: And when I would leave lock the back gate,
[3] bring both gates together and put the chain around the
[4] padlock.
[5] Q: So you would have, to do that duty you would
[6] have to go out on the parking lot, walk to the gate,
[7] put the lock through the holes and line it up and lock
[8] it, correct?
[9] A: Correct.
[10] Q: Okay. Any other duties of the night manager
[11] position while you were employed at Branneky's that we
[12] haven't already discussed?
[13] A: Other than just make sure the fans and stuff
[14] are turned off.
[15] Q: All right. Typically how many employees were
[16] working with you when you were the night manager?
[17] A: Usually there's two feed house guys,
[18] sometimes one, depends on what night we was busy or
[19] slow. There's usually two cashiers up to a certain
[20] time and then there's one cashier and then there's two
[21] salesmen on the floor and one salesman working the
[22] service counter and then me.
[23] Q: Okay. You were not the only person while you
[24] worked at Branneky's who would mix paint, is that
[25] right?

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- [1] A: That's correct.
- [2] Q: Okay. Who else might have mixed paint while
- [3] you were working there?
- [4] A: Jeff Branneky mixed paint, Tim Branneky, Jack
- [5] Branneky, Heidi who came when I started working there,
- [6] she worked with me in that department. I can't think
- [7] of the young man's name that worked at the service
- [8] counter. Dave Versman, that's his name. And then
- [9] there were other salesmen that I trained.
- [10] Q: So other than yourself, the Brannekies might
- [11] mix paint, other employees who worked at the service
- [12] counter might have mixed paint, is that right?
- [13] A: Correct.
- [14] Q: Other salesmen on the floor might also mix
- [15] paint, is that right?
- [16] A: Yes, sir.
- [17] Q: So you were never exclusively the only person
- [18] who mixed paint at the store, is that right?
- [19] A: I was never originally the only person.
- [20] Q: Tell me what you mean by that.
- [21] A: What I mean by that is even though I trained
- [22] the salesmen to mix paint they would get nervous and
- [23] not want to mix it and they would end up calling me and
- [24] I ended up, whatever I was doing, whether I was on the
- [25] floor crawling around putting stuff away or whatever, I
- [1] nature.
- [2] Q: When did you first start doing that?
- [3] A: I'm not totally sure because I was helping
- [4] them off and on before the other man had died.
- [5] Q: And that was part of working at the service
- [6] counter?
- [7] A: No, that was in the basement. That was a
- [8] service counter function but it was done in the
- [9] basement. It was done downstairs.
- [10] Q: But you would do that type of work as a part
- [11] of working at the service counter?
- [12] A: Right. If Jeff or Tim came and said, hey, I
- [13] got this screen, they need to be done, they didn't get
- [14] a chance to get it done, the customer is coming in can
- [15] you get this done, I would take off of my duties to run
- [16] down and do it.
- [17] Q: Did you also work as a floor salesman at
- [18] Branneky's?
- [19] A: Yes.
- [20] Q: And what time did you work in that position?
- [21] A: All the time.
- [22] Q: All the time?
- [23] A: All the time.
- [24] Q: All right. And what, what type of duties and
- [25] responsibilities, you know, what we were the functions

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- [1] would have to stop and come back there and make sure
- [2] things were taken care of.
- [3] Q: Okay. That's if somebody wanted your help,
- [4] right?
- [5] A: Yes.
- [6] Q: Okay. I guess my question really was other
- [7] people at the store mixed paint besides you, is that
- [8] right?
- [9] A: That's correct.
- [10] Q: Now, at the time you were terminated in
- [11] November of 2001 were you still able to perform all
- [12] those duties and functions of the night manager
- [13] position that you described for me?
- [14] A: Yes.
- [15] Q: Okay. Were there any other positions that you
- [16] ever held at Branneky's that we haven't already
- [17] discussed?
- [18] A: I don't know if it would be considered a
- [19] position. I volunteered to help them out because the
- [20] older man that used to work in the basement to work on
- [21] the windows and screens he had passed and had been sick
- [22] several times during those years that I worked there
- [23] and I would work downstairs after my hours and help
- [24] them work on windows and screens and fix those
- [25] windows and screens and screen doors and things of that
- [1] involved in that position?
- [2] A: Ask the customer what did they need and they
- [3] would describe to me what it was and I would take them
- [4] and show them the merchandise. And if they asked me
- [5] something about it I would explain it to them and take
- [6] them up to check out and tell them, thank you, have a
- [7] nice day.
- [8] Q: Are there times when customers would come in
- [9] with an item of hardware or whatever it might be and
- [10] give it to you to look at where you would have to
- [11] identify it?
- [12] A: Yes.
- [13] Q: Okay. Being able to identify items brought
- [14] in by customers and assisting them and finding items
- [15] they needed in the store, you would agree with me,
- [16] wouldn't you, that would be important in keeping the
- [17] customer satisfied?
- [18] A: Yes.
- [19] Q: All right. And were you still able to
- [20] perform all those functions that you've described for
- [21] me as a floor salesman at the time you were terminated
- [22] in November of 2001?
- [23] A: Yes, sir.
- [24] Q: Now, Mr. Taylor, when to the best, you
- [25] know -- strike that.

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[1] When before you were terminated did you last
[2] work as a night manager, when was the last time you
[3] were scheduled as a night manager?

A: I'm not sure. So many changes happened
[5] around there.

[6] Q: Sure. But can you give me at least an
[7] estimate of time?

[8] A: I would say right after I came back from the
[9] surgery, when I came back to work there.

[10] Q: All right. And you came back to work in what
[11] month?

[12] A: Oh, I believe it was in late July or early
[13] August.

[14] Q: Of what year?

[15] A: 2000.

[16] MR. JIMERSON: Can I take a break a minute?
[17] (Short Recess)

[18] MR. GRAHAM: We're back on the record after a
[19] short break.

[20] Q: Mr. Taylor, have you been diagnosed with an
[21] eye disease?

[22] A: Yes, sir.

[23] Q: And what disease is that?

[24] A: Retinitis pigmentosis.

[25] Q: When were you first diagnosed with retinitis

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[1] other one.

[2] Q: Okay. Did Dr. Glaser tell you anything about
[3] how the disease would progress?

[4] A: He told me that my, I would lose my
[5] peripheral, my depth perception, my color. I would
[6] have night blindness and that eventually I would lose
[7] my sight altogether.

[8] Q: Okay. And has his prediction I guess
[9] unfortunately proven more or less to be true or
[10] accurate as far as the course of the disease you've
[11] experienced?

[12] A: Yes.

[13] Q: Okay. In 1995 or thereabouts when you were
[14] diagnosed with this disease were you having problems
[15] with your eyesight or your eyes, was there anything
[16] that you were experiencing at the time?

[17] A: I was having problem at nighttime. When I
[18] would drive home I would pull up to the stop sign and
[19] look for pedestrians and I wouldn't see pedestrians and
[20] then I would proceed to make a left around the corner
[21] and out of corner of my eye I would catch a person just
[22] passing my vehicle.

[23] Q: So you started noticing night blindness, is
[24] that accurate?

[25] A: Yes.

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[1] pigmentosis?

[2] A: I believe it was back in 1995.

[3] Q: And by whom were you diagnosed?

[4] A: Dr. David Glaser. He was at the Anheuser Eye
[5] Institute.

[6] Q: Down on South Grand?

[7] A: Um-huh.

[8] Q: Is that a yes?

[9] A: Yes, sir. He's not there now.

[10] Q: Okay. Where is he located today, do you know?

[11] A: (Hands up gesture).

[12] Q: You don't know?

[13] A: No.

[14] Q: Do you still treat with him for your
[15] condition?

[16] A: Yes, sir.

[17] Q: All right. And we'll talk about that in a
[18] minute, but when Dr. Glaser diagnosed you initially
[19] with this disease what did he tell you about it?

[20] A: He told me that I had at least 10 years of
[21] good sight and he told me to get in touch with the eye
[22] people to --

Q: Rehab Services for the Blind?

[24] A: It wasn't Rehab Services. It was the other
[25] one up here on Manchester. They referred me to the

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[1] Q: When did you first start to really notice
[2] that, to experience that?

[3] A: Like in '94.

[4] Q: Okay. Was that something that kind of came
[5] on suddenly or had it been a gradual process and you
[6] just hadn't noticed it?

[7] A: I hadn't noticed it and I just noticed I was
[8] having problems and I said let me go get my eyes
[9] checked.

[10] Q: And that led you to Dr. David Glaser and the
[11] diagnosis of the disease, correct?

[12] A: Um-huh.

[13] Q: Is that a yes?

[14] A: Yes. Sorry.

[15] Q: That's okay. Again I'm just trying to prompt
[16] you for the record.

[17] When you were diagnosed was there any therapy
[18] or medication that Dr. Glaser prescribed for you?

[19] A: He gave me Vitamin A Chromate which is
[20] supposed to slow down the progression of the disease.

[21] Q: All right. Anything else, any other therapy
[22] or treatment that he described for you at that time?

[23] A: Other than getting with the service for the
[24] blind.

[25] Q: Okay. And did he tell you why you would need

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[1] that?
[2] A: Because he told me I was going blind.
[3] Q: Okay. And do you remember the name of the
[4] agency that he gave you that you first contacted?
[5] A: Well, I didn't -- well, it was, it's right
[6] along Manchester and -- what's the name of the
[7] street?
[8] MR. JIMERSON: Let's go off the record.
[9] (Discussion off the record)
[10] Q: Mr. Taylor, you've told us that Dr. Glaser
[11] referred you to an agency or organization that assisted
[12] people with that lost their sight or were losing their
[13] sight, is that correct?
[14] A: Yes, sir.
[15] Q: And you thought it was located somewhere
[16] around Manchester and Brentwood, is that correct?
[17] A: It was because I went there.
[18] Q: You did actually go to that agency?
[19] A: Yes, I did.
[20] Q: What did they tell you?
[21] A: They told me they couldn't help me.
[22] Q: Did they tell you why?
[23] A: They referred me to someone else.
[24] Q: Who did they refer you to?
[25] A: Well, at that time they didn't -- well, yes,

[1] Q: Susan Fuller?
[2] A: Yes.
[3] Q: And what did she tell you?
[4] A: She set up an appointment for me to come in
[5] and talk with her.
[6] Q: At that appointment what did you discuss with
[7] Miss Fuller or what types of things did you discuss
[8] with her?
[9] A: That I was having problems with my sight.
[10] Q: Okay.
[11] A: Oh -- I'm sorry.
[12] Q: That's okay.
[13] A: I'm going off on something else that's
[14] totally different.
[15] Q: Tell me what you mean. Now I'm confused.
[16] A: I didn't locate, I didn't talk to her until I
[17] think it was in October, I believe it was.
[18] Q: So you think now it was October of 2000 when
[19] you contacted Susan Fuller?
[20] A: When I contacted her.
[21] Q: Okay.
[22] A: The end of September or early October.
[23] Q: Is there a reason why you remember it being
[24] October rather than August?
[25] A: I had had an injury on the job.

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[1] at that time they did refer me, I just didn't get in
[2] touch with them. I think they referred different other
[3] people in the City, other places in the City. I can't
[4] remember.
[5] Q: All right. Were there any other -- after that
[6] initial contact with the agency that told you they
[7] couldn't help you was there another agency that you
[8] contacted then for assistance?
[9] A: Not at that time.
[10] Q: Was there ever another agency that you
[11] contacted for assistance?
[12] A: Just I contacted Rehab Services for the Blind
[13] in 2000.
[14] Q: Okay. And why did you contact Rehab Services
[15] for the Blind in 2000?
[16] A: Because I woke up and I lifted my hand and I
[17] couldn't see it in front of my face.
[18] Q: And when was that in 2000, what time of the
[19] year or what month?
[20] A: I would say I believe it was around August or
[21] something like that.
[22] Q: Okay. And who did you make contact with there
[23] at Rehab Services for the Blind, who did you speak
[24] with?
[25] A: Susan Fuller I believe it was.

[1] Q: Okay. And when did that occur, the injury?
[2] A: I'm sorry, it was somewhere between the end
[3] of October -- I just know it was between the last week
[4] of October -- pardon me, the first week in October.
[5] Q: Did you contact Susan Fuller before or after
[6] the injury on the job?
[7] A: I contacted her after I was approached by my
[8] manager, my boss.
[9] Q: Okay. I guess that doesn't really answer my
[10] question. Was your contact with her before or after
[11] the injury on the job?
[12] A: After the injury, I'm sorry.
[13] Q: Okay. And when you say it was after you were
[14] contacted by your supervisor or boss, what do you mean
[15] A: After I was talked to by Tim Branneky I was
[16] talked to by Jack Branneky.
[17] Q: And what did they talk to you about at that
[18] time?
[19] A: They were telling me I could no longer work
[20] there.
[21] Q: Tell me as specifically as you recall what
[22] Tim Branneky said to you after the work injury you
[23] had.
[24] A: He came out on the floor in the paint aisle,
[25] I was out there writing down and putting

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[1] merchandise on the floor, and he asked me was I all
 [2] right and he asked me did I have the injury because I
 [3] couldn't see and he reprimanded me.

[4] Q: When you say he reprimanded you tell me
 [5] specifically what you mean. What did he say to you?

[6] A: He said, first he asked me was I all right
 [7] and then he said that we know you've been having
 [8] problems with your eyesight lately and are you sure
 [9] you're all right, is that why you fell. And I told
 [10] him, no, it was not.

[11] Q: Okay. How did the injury, the work injury
 [12] occur?

[13] A: I came out of the back door and I was going
 [14] to lunch going to pick up my, picking up some reading
 [15] glasses because I had some work done on them. And I
 [16] came out the back door and walked right past the
 [17] retaining wall to go up to the garden area and go out
 [18] to catch the bus and when I turned past the retaining
 [19] wall there was a garden cart which I tripped and fell
 [20] right over on top of.

[21] Q: Okay. And when you say the back door you mean
 [22] the back door of the store?

[23] A: Back door of the store near where the
 [24] receiving area and the service counter would be.

[25] Q: Sort of at the bottom of the back stairs,

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[1] would that be right, you know where I'm talking about
 [2] in the basement of the store?

[3] A: Not in the basement of the store. This is on
 [4] the first floor.

[5] Q: Okay. I know where you're talking about. So
 [6] you turned left after you came out that door?

[7] A: I came out the door and I made a left around
 [8] the retaining wall.

[9] Q: All right. And there was something there
 [10] that you fell over?

[11] A: There was a garden cart.

[12] Q: Okay. How large was the garden cart, can you
 [13] tell me?

[14] A: It was a flat wrought iron cart which was
 [15] approximately maybe a foot high off the ground maybe
 [16] about a foot and a half wide by 36 inches long with
 [17] angle iron around with the, what they call expanded
 [18] metal down on the inside to make it a place where you
 [19] can put low merchandise on. It had a handle, a metal
 [20] handle, with the wheels that turn in and cut away.

[21] Q: Was this something -- well, what was it used
 [22] for?

[23] A: It was used to load up merchandise like cow
 [24] manure and potting soil and cement and different other
 [25] things.

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[1] Q: So was it used to display merchandise for
 [2] sale or to take it to a customer's vehicle?

[3] A: It was right -- right there where I turned is
 [4] where a, where the incline is where you can back cars
 [5] up into so you can load merchandise into.

[6] Q: Okay. So that's what the cart was used for
 [7] to load a customer's vehicle?

[8] A: To load vehicles, right.

[9] Q: Okay. And you came around the corner in
 [10] front of the retaining wall and what happened?

[11] A: Concrete retaining wall.

[12] Q: Okay. What happened when you came around that
 [13] corner?

[14] A: As soon as I stepped around the corner I felt
 [15] the cart on my leg and I looked down but by that time I
 [16] had already tripped and fell over the top of it.

[17] Q: Okay. Did you see the cart before you fell?

[18] A: No, sir.

[19] Q: Okay. When did you first see the cart?

[20] A: As I was falling. I felt it with my leg
 [21] before because it hit my leg as I turned around the
 [22] corner.

[23] Q: Okay. And when did that accident happen,
 [24] about when?

[25] A: As I said, either the end of September or the

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[1] first week of October.

[2] Q: Of what year?

[3] A: 2000.

[4] Q: Okay. And what did you do immediately after
 [5] the accident?

[6] A: I came back in and I reported it to the
 [7] secretary and showed her my leg was cut.

[8] Q: Okay. Who was the secretary?

[9] A: I can't remember her name, I'm sorry.

[10] Q: That's okay. Did you, were you able to get
 [11] up by yourself or did you need any assistance getting
 [12] up after you fell?

[13] A: I got up but I think I was out for a few
 [14] seconds or something.

[15] Q: When you say you were out what do you mean?

[16] A: Well, I had to shake myself.

[17] Q: Did you --

[18] A: Figure out where I was.

[19] Q: Did you hit your head?

[20] A: I'm not sure.

[21] Q: Okay.

[22] A: I just remember the cut on my leg and that
 [23] the garden cart had caught me in my stomach.

[24] Q: Did you fall over the garden card lengthwise
 [25] or kind of across it sideways, if you know what I mean?

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[1] A: Before.

[2] Q: Okay.

A: I was back there, that's why I was saying
[4] earlier that I had just come back from because I had
[5] that surgery repair.

[6] Q: Okay.

A: And I was in the shower and there was two
[8] nodules was sticking, you know, kind of poked out. I
[9] knew something was wrong and I went to my doctor.

[10] Q: Okay. Which doctor was that?

[11] A: Dr. Shapiro.

[12] Q: And what did Dr. Shapiro say?

A: He told me there were two little nodules
[14] there and he asked me how tender it was and he told me
[15] if I wanted to have them repaired then they had to be
[16] repaired. Depends on how sensitive or how much pain I
[17] was having with them.

[18] Q: Okay. What did you tell him with respect to
[19] that?

A: I told him it was uncomfortable and that it
[21] was kind of keeping me up a little bit at night.

[22] Q: How long before this incident, the garden
[23] cart incident, did you have the hernia repairs done?

[24] A: I'm sorry?

[25] Q: How long before you fell over the garden cart

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[1] had you had the three hernias repaired?

[2] A: I had the hernias repaired in June 2000.

[3] Q: All right. And you were off work for a time
[4] after that, correct?

[5] A: Yes.

[6] Q: How long?

[7] A: Until I think it was the last week in July.

[8] Q: Okay.

[9] A: Or first week in August.

[10] Q: And those three hernias that were repaired in
[11] June of 2000 was there, did you file a workers'
[12] compensation claim as a result of those against
[13] Branneky's?

A: I had mentioned to Tim and they said since it
[15] wasn't, they said since I didn't report it right then
[16] and there when it happened they was not going to file
[17] it.

[18] Q: But I guess my question was did you ever file
[19] a claim against Branneky's for that incident?

A: Not in particular because I was told by Mr.
[21] Branneky and them that they were not going to file it
cause they said that I didn't let them know that I
[23] had injuries is what they said.

[24] Q: Okay.

[25] A: I had never dealt with that so I didn't know

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[1] what the right procedures was other than to talk with
[2] them.

[3] Q: I was going to ask you, had you ever filed a
[4] worker's compensation claim before June of 2000 against
[5] Branneky's or anybody else for that matter?

[6] A: Before what now?

[7] Q: Before June of 2000 had you ever filed or
[8] made a workers' compensation claim against any
[9] employer?

[10] A: Hunt-a.

[11] Q: Is that a no?

[12] A: No, sir.

[13] Q: After the, after you fell over the garden
[14] cart and you went to the doctor you said, you told me
[15] then that you had a conversation with Jack Branneky?

A: I came back to work from the doctor and I
[17] explained to Jeff Branneky the night that I was working
[18] the service counter. The next day -- I assumed he
[19] talked with his father and brother. The next day Tim
[20] Branneky called me up in the office and told me that
[21] Jack wanted to talk to me and I went up to the office.

[22] Q: And what did Jack say to you?

[23] A: He asked me how long did I want to work
[24] there.

[25] Q: Okay. Did he ask you anything else?

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[1] A: He said that we know you're having problems
[2] with your eyes and you, you fell over a garden cart out
[3] there in the lawn and garden area. How did you fall
[4] over that big old cart as tall as it is?

[5] Q: And what did you say in response?

A: I tried to explain to him it wasn't the tall
[7] cart he was talking about. He said regardless, I want
[8] to know how long you want to work here because you're
[9] costing me money.

[10] Q: Okay. And did he -- did you ask him what he
[11] meant by that?

A: I was flabbergasted. I was like huh? And he
[13] said, well, we know you're having problems with your
[14] eyesight and you're becoming a liability and, you know,
[15] and instead of an asset. And, oh, the insurance
[16] company wants to know how long am I going to hold on to
[17] you because you can fall down the back steps and break
[18] your back and I'll have to pay for you for the rest of
[19] your life and I'm not going to do that.

[20] Q: Okay.

A: And I said huh? He said the only way you can
[22] continue to work here -- he said I suggest you look for
[23] another place to work. The only way you can continue
[24] to work here is if you sign a paper saying you will be
[25] held responsible for any injuries you incur because of

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[1] your eyesight. And I said huh?
[2] Q: Okay. Anything else that he said to you that
[3] you remember?
[4] A: He said you can draw the papers up or I can
[5] write the papers up and you can sign it but I need an
[6] answer from you by the end of the week.
[7] Q: All right. Anything else that he said to you
[8] at that time that you remember?
[9] A: That was it. I left the room.
[10] Q: Did you say anything back or in response to
[11] any of the things you've testified to?
[12] A: I was flabbergasted. I didn't have anything
[13] else to say to him. I didn't want to argue with him, I
[14] just kept my mouth shut and went on back to work.
[15] Q: Okay. Did you ever, in fact, sign any piece
[16] of paper like you've described?
[17] A: No, sir. He, he had mentioned it to me,
[18] about three days later he had mentioned to me what I
[19] thought about it, he'll draw the papers up and
[20] whatnot. And at the time I told him I'm not going to
[21] sign anything like that.
[22] Q: And was anything like that, any paper like
[23] that ever presented to you for your signature?
[24] A: No, nothing was presented at the time. He
[25] didn't bring it up anymore.

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[1] Q: So it was never presented to you for
[2] signature?
[3] A: No.
[4] Q: And never came up again, is that right?
[5] A: No, it never did. I was waiting on it to.
[6] Q: But it didn't?
[7] A: No.
[8] Q: Okay. Have you told me everything you can
[9] recall about that conversation with Jack Branneky?
[10] A: That's all I can remember.
[11] Q: Okay. Did you then receive anymore treatment
[12] from Dr. Shapiro or anybody else after that garden cart
[13] incident?
[14] A: I went a couple more times because he had to
[15] verify because the lawyer wanted to verify the
[16] injuries.
[17] Q: Right. Okay.
[18] A: And he said, yes, it's there and I don't care
[19] what that doctor over there is telling you, they're
[20] there and they need to be repaired and it's up to you
[21] if you want to have them repaired or not.
[22] Q: You ultimately, you hired a lawyer with
[23] respect to that fall over the garden cart, correct?
[24] A: I hired the lawyer after I had had that talk
[25] with the Brannekies because I figured that he was going

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[1] to fire me and and I have a wife and kids to support.
[2] Q: So after you had the discussion with Jack
[3] Branneky, is that right, is that when you hired the
[4] lawyer?
[5] A: Um-huh.
[6] Q: That's a yes?
[7] A: Yes, sir.
[8] Q: And did you then file or make a workers'
[9] compensation claim against Brannekies?
[10] A: My lawyer did. He filed it on my behalf.
[11] Q: Okay. And did you ultimately have surgeries
[12] again for the hernias?
[13] A: For the repair?
[14] Q: Yes, sir.
[15] A: No. I'm going to wait until all this is
[16] taken care of.
[17] Q: Okay. So you've never had that repair?
[18] A: Not yet.
[19] Q: Okay. And we're going on five years of that
[20] incident, is that right?
[21] A: Yes, sir.
[22] Q: This year. You gave a deposition in the
[23] original case against Brannekies, correct, original
[24] workers' compensation case?
[25] A: Yes, I did.

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[1] Q: And that was sometime around February of
[2] 2001, is that correct?
[3] A: Yes.
[4] Q: And you were in a room probably similar to
[5] this one with a court reporter and some lawyers,
[6] right?
[7] A: Yes.
[8] Q: And you were under oath, correct?
[9] A: Yes, sir.
[10] Q: And you did your best then to answer those
[11] questions truthfully and honestly then, correct?
[12] A: Yes, sir.
[13] Q: Okay. Now, as a result of your claim against
[14] Brannekies what was -- well, what was the result of
[15] your claim against Brannekies, did you receive any
[16] monies from that claim?
[17] A: Yes, sir.
[18] Q: Do you remember how much?
[19] A: \$12,000 from the workmen's comp.
[20] Q: And from that amount was your, your net
[21] settlement I guess after fees and costs about \$7,500,
[22] something around that neighborhood?
[23] A: Yes, sir.
[24] Q: And you also made a claim you told me against
[25] the Second Injury Fund, correct?

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[1] garden area that are out of the walkway of the people
[2] so they won't trip and fall over them.

Q: Had or was somebody loading a vehicle there
[4] at the time or had they been?

[5] A: Not at the time I was there. It was left
[6] there after someone loaded.

[7] Q: When you fell was there anybody else so far
[8] as you know who saw you fall?

[9] A: Not so far as I know. No one came to help
[10] me.

[11] Q: Okay. I was going to say nobody came to help
[12] you I guess so you would presume nobody was around?

[13] A: Right.

[14] Q: Did anybody ever tell you, hey, I saw you
[15] fall out there, Broderick, did anybody ever say
[16] anything to you like that afterwards?

[17] A: No. Not to my knowledge.

[18] Q: Okay. Now, after you fell and you went to
[19] the doctor and then you had the conversation with Jack
[20] and you hired the lawyer, did you have anymore
[21] conversations with any of the Brannekies, Tim Branneky,
[22] Jeff Branneky or Jack Branneky about the garden cart
[23] incident that we've been talking about?

[24] A: Not to my recollection.

[25] Q: In your answer to Interrogatory Number 7 --

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[1] Q: Okay. Tell me about that.

[2] A: Tim Branneky had -- well, right after the,
[3] the deposition, when I did the deposition in February.

[4] Q: Okay.

[5] A: Tim Branneky was off the next day, because I
[6] hadn't even let them know that I was even doing the
[7] deposition. I didn't know they even knew anything
[8] about it. And he came in the next day on his day off,
[9] and I'm in the aisle putting up merchandise, and he
[10] just, hi, how you doing, how you doing, and I just keep
[11] on working, you know. He turned to me and smiled and
[12] said, well, how did your deposition go.

[13] Q: Okay.

[14] A: And I said fine. I did not want to discuss
[15] anything of that nature to him. I just turned around
[16] and walked away.

[17] And then there was a time when Tim Branneky
[18] pulled me up in the office and asked me how is your
[19] sight, how you doing. And he wanted to discuss, well,
[20] can you, can you see, what can't you see, what can you
[21] do, what can't you do. We're going to protect
[22] ourselves. I just want you to know. I'll tell you
[23] what we can do, we can help you, what can we do to help
[24] you. We can lay you off and you can get your
[25] unemployment or your disability and -- which that

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[1] MR. JIMERSON: If you could read them because
[2] he can't.

[3] Q: Yeah, I know. I'll read the part of the
[4] answer that I'm going to ask you about. Well, I'll
[5] read you the whole answer.

[6] A: Okay.

[7] Q: "Defendant found out that Plaintiff had a
[8] lawyer for his workers' compensation matter in
[9] October. Plaintiff had fallen over a cart at work in
[10] September of 2001." Let me stop there.
[11] Does that sound to you like that's just a
[12] typographical error and that should be September of
[13] 2000 instead of 2001?

[14] A: That's an error.

[15] Q: I'm continuing to read. "Plaintiff felt
[16] badly because he had been reprimanded for the accident
[17] and taunted about his vision."

[18] When were you taunted about your vision?

[19] A: That was that day that I had told you Tim
[20] Branneky came down.

[21] Q: That was the conversation you related to me
[22] with Tim Branneky that day?

[23] A: Yes. There were other times when I was
[24] brought up into the office and they was asking me
[25] questions.

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[1] flabbergasted me. Or we can put you down in the
[2] basement where you don't have to be on the floor where
[3] you'll work on screens. I didn't want to do that. I
[4] just asked him that I needed him to -- I had been, I
[5] had been on temporary for the service counter, they
[6] were supposed to get me off the service counter but it
[7] turned from temporary to full-time because I didn't
[8] want to work nights at the service counter. And he
[9] said, well, we can get you off service counter. And
[10] after that conversation then they cut my hours.

[11] Q: Okay. And at that point -- tell me when that
[12] conversation happened.

[13] A: That was in February.

[14] Q: February of 2001?

[15] A: Um-huh.

[16] Q: That's a yes?

[17] A: No, that can't be February of 2001. Wait a
[18] minute. I did the deposition in February. Yeah,
[19] February of 2001. Yeah, February of 2001, yes.

[20] Q: There were some things that I wanted to ask
[21] you about that you told me there. Did you tell him
[22] that you couldn't discuss things to do with your
[23] disability?

[24] A: I said I didn't want to discuss the case in
[25] front of him by himself with just him and me unless my

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[1] lawyer was with me.

[2] Q: Okay.

[3] A: That's what I told him.

[4] Q: Okay. Did you tell him at that time, you
[5] know, here's what I need, here's what I need from you
[6] to help me do my job, did you tell him then anything
[7] like that?

[8] A: Like what, I'm sorry?

[9] Q: I'm sorry. Strike that. Let me ask you a
[10] better question.

[11] You just told me about a conversation you had
[12] with Tim Branneky up in the office of in February 2001?

[13] A: Right.

[14] Q: And what I want to know at that time did you,
[15] did you tell Tim or ask Tim for any assistance in
[16] performing your job?

[17] A: Not at that time because Rehab Services for
[18] the Blind was helping me and getting stuff for me.

[19] Q: All right. And what were they helping you
[20] get at that time in February of 2001?

[21] A: Different equipment to be able to do my job
[22] to help me see better.

[23] Q: Okay. And what type of equipment was that?

[24] A: They had gotten me a magnifier that I could
[25] put, like a big ruler that I could put on my book and

[1] Jack Branneky was up there and I had mentioned to th
[2] that I was with Rehab Services for the Blind and they
[3] would be working with me to help me be able to do my
[4] job a lot better around there as far as my sight was
[5] concerned. And at that time Jack Branneky and Jeff
[6] Branneky go, well, what is Rehab Services for the Blind
[7] going to do for you, can they see for you? If they
[8] can't see for you there's nothing they can do for you.

[9] Q: Okay. When did that conversation occur?

[10] A: That was between that time period.

[11] Q: Between what time period, I'm sorry?

[12] A: Between February 1st and -- because Mr.
[13] Branneky had called me up in the office and asked me
[14] about an order form that I failed to put the prices on.

[15] Q: One of the paint order forms or was this for
[16] something else?

[17] A: The paint order for roller handles and covers
[18] and stuff.

[19] Q: All right. And what did he ask you about?

[20] A: He was -- what happened is one of the workers
[21] was helping me to write the prices down and I asked
[22] them, and I put the paper down and lined it up and
[23] evidently she didn't see it too well and I, because
[24] what she told me I wrote the prices down and they were
[25] on the line above, below or maybe above, and Mr.

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[1] it had a red line or some color line that I could put
[2] on there and it magnified it and made it big enough for
[3] me to see the words for the formula. It was a lighted
[4] magnifier that they gave me. A walking stick. Special
[5] sunglasses for outside. What else? Different items
[6] that I could use to write my, to sign my name and make
[7] sure I'm on the right line when I'm signing and filling
[8] out things.

[9] Q: What was that device?

[10] A: It was just a little plastic, a little
[11] plastic like card. Like almost like a little plastic
[12] card.

[13] Q: Did it have cutouts in it?

[14] A: Yes, and would slide in your pocket.

[15] Q: Okay.

[16] A: And they gave me a recorder to record
[17] anything that I wouldn't write down to help me remember
[18] things for my order and all that.

[19] Q: Okay. Is that one of the recorders that uses
[20] the small mini diskettes?

[21] A: Yes.

[22] Q: Anything else that they had given you at that
[23] time in February of 2001?

[24] A: Not that I can think of. I had had

[25] conversations with Jeff Branneky up in the office and

[1] Branneky was fussing at me about it.

[2] Q: Okay. And again if you could tell me when
[3] this conversation with Jeff and Jack Branneky
[4] happened?

[5] A: Between February of 2001 and I will say that
[6] would have to be March, May, June, somewhere around
[7] there.

[8] Q: Of 2001?

[9] A: Um-huh.

[10] Q: That's a yes?

[11] A: Yes, sir, I'm sorry. I'm sorry.

[12] Q: You're doing fine. It's hard to remember.

[13] A: And the last --

[14] MR. JIMERSON: There's no question.

[15] Q: Let me me ask you another question.

[16] A: Okay.

[17] Q: Were there any other conversations that
[18] you've had with any of the Brannekies, Tim, Jeff or
[19] Jack, pertaining to your eyesight and the ability to do
[20] your job that we haven't talked about? Other than whe
[21] you were terminated and we'll talk about that in a
[22] little bit.

[23] A: Just the conversation I had with Tim before I
[24] was fired.

[25] Q: And tell me about that conversation. When

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[1] did that occur?

[2] A: Maybe a week or two before I was fired. I
[3] ad come to him and I -- we were remodeling the paint
[4] department.

[5] Q: Okay.

[6] A: And they were going to destroy my desk and
[7] make a new desk and Rehab Services for the Blind was
[8] purchasing me a CTV screen and I went to Tim Branneky
[9] and asked him when they built the desk if there was
[10] a possibility that he could provide that much room
[11] for the CTV screen that the State was going to buy for
[12] me.

[13] Q: Okay.

[14] A: And that would make it possible for me to put
[15] things on there and blow them up and make it easier for
[16] me to read. And he turned to me and said, well, what
[17] are Rehab Services for the Blind going to do for you,
[18] are they going to help you see. If they ain't going to
[19] help you see there ain't nothing they can do for you.
[20] And then he was saying something else and I told him,
[21] well -- it became apparent to me that he was wanting to
[22] argue and I didn't want to argue. I just said, well,
[23] thank you, Tim, and I just ended the conversation. I
[24] said it's obvious to me that you already made up your
[25] mind what you're going to do so I thank you, I got to

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[1] go back to work and get finished. And that was the
[2] last conversation I had with him.

[3] Q: Did you have any conversations with any of
[4] the other Brannekies, Jeff, Jack or Tim, before you
[5] were terminated other than what you've related to me
[6] about your eyesight and the problems you were having at
[7] work?

[8] A: There were several times that Jack snatched
[9] merchandise out of my hand when I was waiting on
[10] customers.

[11] Q: Tell me about that.

[12] A: I was back at the service desk and a
[13] gentleman needed some washers and I got the washers for
[14] the gentleman, showed them to the gentleman, the
[15] gentleman said, yes, that's perfect, that's what I
[16] want. I said okay and I wrote the price and I said
[17] thank you, have a nice day. And Jack snatched them out
[18] of my hand, wait a minute, give them here, he blind, he
[19] can't see, he don't know what he's doing. But the
[20] customer was getting ready to go up to the checkout and
[21] pay for it. Which made me, you know.

[22] There was a time when I was up at the front
[23] checkout when they called for a manager for a return in
[24] the daytime and I came up and got it and the customer
[25] and I discussed it and we knew what we wanted to do and

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[1] get. And I was on my way to go get it and he came down
[2] out of his office and took it out of my hand and said
[3] he can't see, he's blind, he don't know what he's
[4] doing. And snatched it out of my hand and took the
[5] customer and walked off.

[6] Q: Any other incidents like that?

[7] A: Right now that's all that's coming to my mind
[8] right now.

[9] Q: Okay. If you think of anymore while we're
[10] here today let me know, okay? All right?

[11] A: Yes, sir.

[12] Q: When did the incident with the washers at the
[13] service counter happen, when did that occur?

[14] A: Oh, I would say -- I got fired in November, I
[15] would say either October, maybe September. Right
[16] around in there.

[17] Q: Again in 2001?

[18] A: Yes, sir.

[19] Q: What about the incident with the customer in
[20] the daytime when you were called, where you went to the
[21] front for a return? The other incident you just told
[22] me about, I'm sorry. I'm not trying to be cryptic
[23] really.

[24] A: It could have been any time around between
[25] September and March.

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[1] Q: September and March of what year?

[2] A: Of 2001.

[3] Q: So between March of 2001 and September of
[4] 2001, is that right?

[5] A: Yes, sir.

[6] Q: Which of those two incidents happened first
[7] in time, the washer incident or the incident in the
[8] front of the store?

[9] A: The incident in the front of the store.

[10] Q: Okay. Were either one of those customers
[11] involved in that incident were they upset with you or
[12] in any way displeased with your work to your knowledge?

[13] A: Not to my knowledge, no. They were jolly,
[14] oh, hey, thanks, you know. And I said, okay, have a
[15] nice day.

[16] Q: Okay.

[17] A: They said thank you. That's exactly what I
[18] wanted.

[19] Q: All right.

[20] A: And the other customer, I don't know because
[21] they were kind of flabbergasted at what he did. He
[22] just took over. He walked off so I don't know what
[23] happened after that. I just took another customer.

[24] Q: Okay. All right. Had you ever seen Jack get
[25] frustrated or upset with other employees at Branneky's?

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[1] A: All the time.
[2] Q: Would it be fair to say that Jack was not an
[3] easy man to work for or with?
[4] A: You get him out of that setting he's a
[5] totally different person.
[6] Q: So you would agree with me he was difficult
[7] to work for and with?
[8] A: Yes.
[9] Q: Okay.
[10] A: But I didn't hold that against him. I just
[11] went on and did my job. I figured it was just
[12] frustration.
[13] Q: I understand. To your knowledge did other
[14] employees at the store share your views of Jack being
[15] difficult to work with?
[16] MR. JIMERSON: Let me object based on
[17] speculation of what other, his views of other people,
[18] what their feelings were. But subject to that.
[19] A: I don't know.
[20] Q: I mean, was there ever, I mean, you know, was
[21] there talk amongst employees about --
[22] MR. JIMERSON: I think he also wanted to
[23] answer, to add on.
[24] Q: Sure. Go ahead.
[25] A: You said to me if I thought of any other

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[1] incidents I was trying to --
[2] Q: Go ahead.
[3] A: There was the -- now I lost my thought. Oh,
[4] after they had cut my hours.
[5] Q: Okay.
[6] A: By me being a manager usually I've always
[7] been used to, by us being managers we're supposed to
[8] help. So usually when the service counter is full of
[9] people normally we're supposed to come back and help
[10] them clear the service counter, help customers and take
[11] care of them and everything. And usually at about 5
[12] o'clock Mr. Branneky is going out of the store and
[13] that's one of the things that we helped out at the
[14] service counter so it would be less congested and
[15] help. Or if I came in early and the service counter
[16] was, we could clock in 15 minutes early and all of that
[17] and that's never been a problem all through the years
[18] and after the deposition and everything, after they cut
[19] my hours and everything, Jack came to me and told me
[20] you clock out when -- you work the hours we tell you to
[21] work, don't clock in five minutes early, don't clock
[22] out five minutes early.
[23] Q: All right.
[24] A: So that kind of threw me for a loop because I
[25] was used to what I been doing all those many years and

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[1] it just threw me for a loop that, because they cut my
[2] hours down to 33, 34 hours and I was used to working
[3] more than 40 hours a week.
[4] Q: Okay. And your hours were cut after they
[5] took you off of the service counter, is that right?
[6] A: Yes, after. Yes, sir.
[7] Q: And --
[8] A: Off the service counter?
[9] Q: You told me that at some point you had
[10] requested that you be taken off the service counter?
[11] A: I had requested that but they never did
[12] that.
[13] Q: Why did your hours get cut, what hours got
[14] out?
[15] A: After I had talked -- I'm sorry, let me go
[16] back. After I talked with Tim Branneky in the office
[17] that day when I expressed to you and told you he said
[18] we're going to protect ourselves, I'll do what I can to
[19] help you. After that that's when he cut my hours.
[20] Q: Okay. And --
[21] A: He cut me from, in a two week period of time
[22] roughly 80 hours plus 20 hours overtime to 30, 33 hour
[23] a week.
[24] Q: Okay. At that time was there any change in
[25] the job duties you were performing when your hours we

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[1] cut? I mean, in other words, was there something you
[2] weren't doing?
[3] A: No, sir.
[4] Q: Where were you working at that time?
[5] A: Hum?
[6] Q: Where were you working in the store at that
[7] time?
[8] A: Service counter, paint department, lawn and
[9] garden, up front as a salesman. When they need me lik
[10] I usually fill in at lunchtime, fill in for the
[11] managers when they went to lunch. When the gentlem
[12] at the service counter went to lunch. Just the regular
[13] normal duties.
[14] Q: Okay.
[15] A: Other than the fact they didn't let me manage
[16] at night anymore.
[17] Q: Okay. And had you ever requested that you be
[18] taken off of nights?
[19] A: Yes, I did because I was only supposed to be
[20] temporary until they got someone to fill in but it
[21] turned out to be not one year, not two years, not three
[22] years, it just kept going on and on.
[23] Q: When did you make the request to be taken off
[24] of nights?
[25] A: When they started having me work more than

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[1] A: No, sir.
[2] Q: Okay. You're not aware of there being any
[3] additional fixtures installed in the basement after
[4] that review with Mr. Mark?
[5] A: There were none, at the time that I was
[6] terminated there was none then. Anything could happen
[7] now.
[8] Q: And that's what I meant. To make the
[9] question fair, you're not aware of any fixtures being
[10] added between the time of the review and the time you
[11] were terminated?
[12] A: Right.
[13] Q: Who was Mr. Mark reporting back to you? Do
[14] you know if he was reporting back to Rehab Services for
[15] the Blind after this review, if you know?
[16] A: I was told he was supposed to go to Detroit
[17] and do his analysis and send it to Rehab Services for
[18] the Blind. And then they were supposed to -- well, all
[19] I know is Rehab Services for the Blind was supposed to
[20] send them, I don't know who from that section but one
[21] of them was supposed to send the report to one of the
[22] Brannekies.
[23] Q: Do you know if the report was ever sent to
[24] any of the Brannekies?
[25] A: I personally don't know. They keep things

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[1] hid from me.
[2] Q: Well, I'm asking you if you know.
[3] A: No.
[4] MR. JIMERSON: I want you to answer the
[5] question he asks and wait for the next questions so we
[6] can keep those kinds of comments off the record.
[7] Q: Did you ever, did anybody ever talk to you
[8] about a report that had been prepared by Mr. Mark,
[9] anybody at Rehab Services for the Blind or anywhere
[10] else?
[11] A: Judy Burch who's my, I can't remember what
[12] they call her, she gave me a report.
[13] Q: Okay. Did she read it to you or how did you
[14] find out about it?
[15] A: One of her -- somebody read it. She's
[16] blind.
[17] Q: All right. And what was discussed in that
[18] report that you recall?
[19] A: About the lighting, about the amount of
[20] filament tape down on the basement floors and the
[21] congestion being eliminated. About the lighting on the
[22] service counter -- not service counter, the, my
[23] counter, my paint desk. And whatever they could do to
[24] lighten up the display around the service counter to
[25] make it possible for me to see it.

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[1] Q: What was that about, the display around the
[2] service counter?
[3] A: We have a display of hardware items there and
[4] we have a case that they made with screws and bolts and
[5] nuts and all kind of parts but they had put, all of it
[6] was on a dark background with plexy glass and you
[7] couldn't see in it.
[8] Q: If you lifted up the plexy glass could you
[9] then see it in?
[10] A: I'm sorry?
[11] Q: I understand there would have been a
[12] reflection with the plexy glass but if you lifted it up
[13] could you then see the parts and things that are in the
[14] cabinet?
[15] A: Yeah. I would say so.
[16] Q: Okay. Now, was there also some discussion,
[17] did anybody ever discuss with you the CTV monitor after
[18] the report was issued?
[19] A: Not from my job, no.
[20] Q: Okay. Tell me what you mean.
[21] A: The only one that discussed the CTV monitor
[22] was Rehab Services for the Blind to get it for me for
[23] my job.
[24] Q: Okay. Maybe I didn't make it clear. I just
[25] wondered did you have discussions then after this

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[1] evaluation took place in the store with Rehab
[2] Services for the Blind or anybody else about that TV
[3] monitor?
[4] A: Yes, sir.
[5] Q: Okay. Tell me about what you recall about
[6] those conversations.
[7] A: They had people coming to my house and
[8] showing me the different models and how they work and I
[9] had to choose a model and sign for them to get it for
[10] me. For Rehab Services for the Blind to get it for
[11] me.
[12] Q: And what was that monitor going to help you
[13] do, what was your understanding of that?
[14] A: It takes small letters and words and items
[15] and it blows it up on a screen for, makes it able for
[16] me to see.
[17] Q: And where did you envision that monitor was
[18] going to be installed?
[19] A: On my desk.
[20] Q: In the paint area?
[21] A: In the paint area.
[22] Q: And what were you going to use it for in the
[23] paint area?
[24] A: For reading and to help me with the paint
[25] formulas and whatnot.

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[1] Q: Okay. Anything else that it would be used
[2] for in the paint area?
[3] A: Anything else that I could use it for, yes.
[4] Q: What else would you have used it for?
[5] A: It would just blow things up, small things up
[6] big enough for me to look at.
[7] Q: So could you read better?
[8] A: Yeah, I could read better.
[9] Q: Okay. Would it have helped you perform your
[10] functions at the service counter like cutting glass or
[11] cutting and threading pipe or cutting keys?
[12] A: No, sir, only at the paint desk.
[13] Q: Okay. All right. Now, you told me you
[14] were terminated by the Brannekies on November 21,
[15] 2001, right?
[16] A: Yes, sir.
[17] Q: And who terminated you?
[18] A: Jack Branneky.
[19] Q: And tell me how it came about that day.
[20] A: I came into work early, maybe like 45 minutes
[21] or 30 minutes early, and I sat back in the lunchroom
[22] and was eating lunch and Jack Branneky came back to the
[23] lunchroom and I said I want to see you up in the
[24] office.
[25] Q: Okay.

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[1] A: And I went up in the office and Tim Branneky
[2] was coming out and I asked him what's, where is Jack,
[3] what does he want? And he said I don't know nothing
[4] about it, he said he wants to see you up there in the
[5] office and he walked on out to the floor. And I came
[6] in the office and he asked me to shut the door.
[7] Q: Okay.
[8] A: And he started telling me that, he said
[9] sometime ago we talked about you starting to look to
[10] find another place to work and basically we don't think
[11] it's, that you can work here, we don't feel like you
[12] could be safe here. And we've had other talks and feel
[13] like he can't work with me because I wouldn't discuss
[14] anything about the case with him and he said working
[15] with people when you ask them questions you give them
[16] answers and, and he terminated me.
[17] Q: And did you have your recorder with you that
[18] day?
[19] A: I sure did.
[20] Q: And did you record the conversation with Jack
[21] Branneky?
[22] A: I did.
[23] Q: And did you let him know that you were
[24] recording him that day?
[25] A: No, sir.

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[1] Q: Okay. When did you turn the recorder on that
[2] day?
[3] A: Before I walked in there.
[4] Q: And where was the recorder at?
[5] A: In my pocket.
[6] Q: In your shirt pocket or pants pocket?
[7] A: Shirt pocket.
[8] Q: And did you record the entire conversation?
[9] A: Yes, I did.
[10] Q: What did you do with the tape afterwards?
[11] A: Made copies.
[12] Q: And who did you make copies for?
[13] A: I gave it to my lawyer.
[14] Q: Okay. And that's your workers' comp lawyer
[15] that you gave it to?
[16] A: Yes, sir.
[17] Q: Okay.
[18] A: And my lawyer here.
[19] Q: All right. Have you made any other tapes in
[20] connection with this case?
[21] A: No, sir.
[22] Q: Well --
[23] A: Other than just a tape telling my lawyer
[24] about my duties and everything on the job.
[25] Q: I'm going to play a couple of these to have

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[1] you identify your voice and you can listen to as much
[2] as you need to.
[3] MR. JIMERSON: Before you start can I tell
[4] them something in there?
[5] MR. GRAHAM: Sure. Go ahead.
[6] (Short Recess)
[7] Q: Mr. Taylor, what's been produced to me in
[8] this litigation are three tapes that we had copied.
[9] The first one I put in the tape player is labeled
[10] Taylor versus Branneky, Volume 1. I'm going to play
[11] as much of this you need to hear and then I'm going to
[12] ask you if you can identify what it is for me. So when
[13] you're ready if you'll just signal to me and I'll turn
[14] off the tape player and we can do that.
[15] (Off The Record)
[16] A: Okay. That's it.
[17] Q: Sir, do you recognize the voice on that tape?
[18] A: That is my voice.
[19] Q: And what is, what is contained on that tape
[20] that we just listened to a few moments of?
[21] A: I'm not sure because I haven't heard the rest
[22] of it. I heard enough of it to identify it was me.
[23] Q: We can listen to as much of it as you need
[24] to.
[25] MR. JIMERSON: Is that the tape to me?

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[1] Q: Now, the next name is David Versman,
[2] V-e-r-s-m-a-n. And your answer indicates has knowledge
[3] of the way Plaintiff was treated because of his
[4] disability at the service counter and was a witness to
[5] the statement "he's blind, he doesn't know what he's
[6] doing."
[7] A: He was right there when I was working at the
[8] service counter when Jack said those things. And he
[9] and I worked the service counter together and he should
[10] have knowledge and know about things that went on or
[11] happened to me.
[12] Q: Is he still employed there, do you know?
[13] A: I don't know.
[14] Q: When is the last time you talked with Mr.
[15] Versman?
[16] A: I haven't talked to Versman, Mr. Versman
[17] since I left.
[18] Q: And then the last category of people here is
[19] a cashier and a saleslady, names unknown. Also have
[20] knowledge of the way that Plaintiff was treated due to
[21] his disability.
[22] A: Loretta is the saleslady lady. She has
[23] knowledge of the way they were treating me because
[24] she's discussed it with me before.
[25] Q: Okay.

[1] ended up clocking in their card instead of clocking in
[2] mine and then Tim Branneky called me on it in the
[3] office and said something about it.
[4] Q: When did that happen?
[5] A: That happened right before I got fired, too.
[6] Q: Who folded the other time card?
[7] A: I don't have have the slightest idea.
[8] Q: How do you know that it was folded that way?
[9] A: Because it was folded exactly the same way
[10] that my card was folded.
[11] Q: Whose time card was it?
[12] A: I do not know. There was a policy that if
[13] your time card is not right you have to bring it before
[14] Tim Branneky to get it straightened out otherwise you
[15] will not get paid.
[16] Q: Okay.
[17] A: So after somebody told me that wasn't my time
[18] card I went to him and told him what was going on and
[19] he said, uh-huh, yeah, un-huh, yeah.
[20] Q: Who told you that it wasn't your time card?
[21] A: One of the other employees there.
[22] Q: Do you remember who it was?
[23] A: No, I don't recall who it was. This happened
[24] at night when we were getting ready to leave and walk
[25] out the door. I was walking out the door to go home.

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[1] A: And the cashier, her name is on the tip of my
[2] tongue, but I can't, I can't remember.
[3] Q: What does the cashier have knowledge of?
[4] A: There was one cashier that was up front when
[5] he snatched that stuff out of my hand. And there was
[6] also another cashier who was helping me to clock in and
[7] out with my time card.
[8] Q: Who was that?
[9] A: I can't remember her name.
[10] Q: Okay.
[11] A: If I had a list of those names before me I
[12] could tell you right then who it was.
[13] Q: Was there a, was there ever any issue with
[14] your time cards?
[15] A: Yes.
[16] Q: What was that about?
[17] A: Because I wasn't able to read the ink on the
[18] time card I was taught how to fold my time card a
[19] certain way at the top so it would be easy for me just
[20] to find my time card instead of wasting time trying to
[21] figure out where my time card is and have people look
[22] at it and read it and tell me if that was my card or
[23] not. I had a certain way that I was doing it and
[24] somebody at Branneky's caught on to it and they folded
[25] somebody else's time card up and put it in place and I

[1] Q: Did you get that issue straightened out, I
[2] mean you didn't lose any pay?
[3] A: Yeah, it was straightened out.
[4] Q: Okay. Have we talked about all of your
[5] conversations with Tim Branneky about your disability
[6] and your work at Branneky's?
[7] A: It's possible, but then again there could be
[8] more.
[9] Q: After you fell over the garden cart did you
[10] ever tell, did you tell Tim Branneky that you needed to
[11] go see a doctor?
[12] A: He asked me if I felt like I needed to go see
[13] a doctor.
[14] Q: And what did you say?
[15] A: I said, well, I don't know, I kind of feel a
[16] little shaken up but I don't, I don't know if anything
[17] is broken or anything. But he didn't offer to send me
[18] either.
[19] Q: He asked if you thought you needed to go,
[20] right?
[21] A: Yes.
[22] Q: After Rehab Services for the Blind did their
[23] evaluation that you told me about that Jeff Branneky
[24] participated in did you ever have any conversations
[25] with Jeff about any of that that we haven't already